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# DOMESTIC COMMERCE IN ENGLAND DURING THE MIDDLE AGES, WITH SPECIAL REFERENCE TO FAIRS AND MARKETS.

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## PART I. INTRODUCTION.

This paper does not pretend to contain a complete discussion of England's domestic commerce in the middle ages. It only gives somewhat briefly, the more important phases of the subject, and then more fully develops those features which were particularly distinctive of the times; that is, the merchant gild, and especially, fairs and markets.

The age was one of intense competition in trade, and this competition was furthermore, between different cities and towns, rather than between individuals, or between countries. It was inter-municipal in character. Protection and monopoly were the economic principles of the age.

### A. Period of history covered.

The actual historical period covered is from the Norman supremacy to the close of the fourteenth century, though most of the material given will be found to refer to the 12th and 13th centuries.

### B. Why London has not been included in discussion.

London has not been included in this discussion, because its development was not like that of the typical English city or town of the period. Therold Rogers says[1] that London was different from other towns in that it was a perpetual market. Market for goods, particularly of foreign goods, was below the city walls, on the river wharves. While within the city were great open spaces, later built over, where markets were continually held, toll being taken by the city, or individuals, or companies.

1. T. Rogers. Six centuries of Work & Wages, p.25.

As further evidence of the difference between London and other boroughs, George Unwin says[1] that the commerce of London, (1336-1365), became specialized. Its merchants became: "mercers, pepperers, vintners, fishmongers, skinners, and drapers." The less important ports were usually interested in one line of trade. There is no record of one single gild merchant controlling the trade of London as was common in these other places.

1. George Unwin. Estate of Merchants, p.238.

## PART II. CERTAIN CONDITIONS UNDERLYING THE DEVELOPMENT OF THE DOMESTIC COMMERCE DURING THE PERIOD.

### A. Status of the Foreign Merchant.

1. Whom so considered.

The term foreign was sometimes used not only in the usual sense of what was outside of England, but was, at times, used in reference to what was outside a certain local community or town. As W. J. Ashley[1] says, English merchants from other towns were treated by burgesses of a town practically as "alien", and they were subjected to much the same treatment as those who really were foreign. Some of the restraints placed upon the trading of English merchants from another locality will be shown by the fact that merchants of Southampton petition that merchants from Winchester or Salisbury should be prohibited from buying except from burgesses of Southampton. Also, the same request was made by Lynn regarding traders of Ely and Cambridgeshire.

The following will also illustrate like attitude on the part of the citizens of Lanark, in 1285:[2] "we also forbid that anyone within the sheriffdom of Lanark buy wool or hides or carry on any trade or make broad cloth or dyed and shorn cloth except our burgesses of Lanark..."

2. How in general regarded and treated.

While foreign merchants, (this time in the usual sense), were not unwelcome, yet they were regarded with suspicion,

1. W. J. Ashley. Introduction to Eng. Economic History, v. I, p.108.
2. Ballard & Tait. British borough charters, p.242

Ashley[1] says, for fear that they might succeed in breaking down the monopoly of trade the English merchants, or burgesses, rather, had over internal trade in the country. Hence they were forced to follow certain regulations made by the municipal authorities. Some of these were: (1) They must buy of and sell only to burgesses; (2) They must do this only on market days; (3) They must not dabble in retail trade; (4) They must not go inland with their goods; (5) (In order to insure 4); They were not to remain in England more than forty days. This was true in the time of Magna Carta, and for almost a century after continued so.

Alice Stopford Green[2] says that a foreigner was an "object of universal suspicion lest he should be a dealer travelling with an alert intention to outwit the public and force an artificial value in the market by...intercepting goods on the way to market in order to buy them more cheaply; of thus buying at advantage to sell at increased prices; or of keeping back goods bought at wholesale prices in order to sell them later at a better value. A jealous watch was kept on him." The account continues to state that the stalls of these strangers were sometimes separated from those of the burghers. Sometimes they could only display their wares after a certain time after arrival; sometimes they could only sell wholesale. This latter restriction might be altered if it suited the convenience of the public; such as at a time of crowd, orders might be issued which allowed country dealers to bring food within the walls and sell without toll or other charge.

1. Ashley, v. 1, p.104
2. A. S. Green, Town Life in the Fifteenth Century, p.59.

3. Relations with the king.

The nobles thought if they dealt directly with foreign traders they might obtain better prices, hence they opposed the many restrictions put on them by the towns. In this opposition they were usually upheld by the king, as he regarded the high duties these foreign merchants were willing to pay for the privilege of trading in England with the greatest approval. During the reign of Henry III, some lessening of restrictions came about, and many merchants from France and Italy swarmed into the country. They were not forced to live in the houses of citizens, as had been the rule, but were allowed to have warehouses and residences of their own. Also the king granted trade licenses or safe conducts to whole towns instead of to individual merchants. At the time of Edward I, during the quarrel between him and the burgesses of London, the king took this ooportunity to aid foreign merchants at the expense of the English merchant class. Foreigners were allowed to stay longer than forty days in England. (When the Londoners regained their power this restriction was again in force.) In the reign of the same king, in 1303, the Carta Mercatoria was issued, whereby on payments of additional customs, all previous restrictions as to time and place of residence, and as to persons to whom goods might be sold, were removed. And although most of the retail trade was still to be in the hands of the English merchants, still in some respects, such as in the sale of spiceries and merceries the foreigners obtained some measure of freedom in trade. Municipal authorities were threatened with severe penalties if they refused to show justice to foreign merchants. In

such suits as did arise one half of the jury was to consist of merchants from the home town and the other half from the town of the foreign merchant. Quarrels continued for some time, with advantages first for the foreigners, then with more restrictions imposed. During Edward II's trouble with the barons, the burgesses got the opportunity to re-impose some of the repealed restrictions, but with Edward's victory over the barons, he again restored the foreign merchants to their former position, with riots in London as the result. During the reign of Edward III the towns had their old privileges restored to them at first, but soon these were taken away. In 1335 foreign merchants could deal with anyone they chose; in 1343 they were allowed to stay in the country longer, but were liable to ordinary taxation; in 1351 they could sell by retail; and in 1353 the customs imposed in the Carta Mercatoria were confirmed by Act of Parliament.[1]

4. Relations with the burgesses.

Before taking up the relations between the foreign merchant and the burgesses, it might be well to see just what privileges a town was understood to have. This is given very well in the grant which follows,[2] "Grant that the town of Mungumery shall be a free borough and that the burgesses of the said town may enclose the same with a ditch and wall, and may have a merchant gild with a hanse, and all customs pertaining to that gild, and that none who are not of that gild shall practice any merchandise in the said borough except by the consent of the burgesses;...and the said burgesses shall have sac and

1. Ashley, V.I, p.105-107
2. Calendar of Charter Rolls, V.I, .1227 Feb. 13, Westm.211

soc and infangenethef and shall be quit of toll, lastage and pontage, passage, and stallage and of lene and dane geld and gaywite and all the liberties and exemptions enjoyed by the citizens of Hereford; moreover they shall have two yearly fairs in the borough, one on the vigil...of St. Bartholomew and the other on the vigil...of All Saints...and a weekly market on Thursday; and all merchants of the King's dominions and of other lands, who are at peace with him, with their merchandise coming to the said borough, abiding there or leaving the same shall be free to come or go by land and water, and shall have free entry and exit from the king's dominions on payment of the due and lawful customs; all the above is granted saving the liberty of the city of London."

As William Cunningham[1] says, the "mercantile policy of towns which contributed largely to royal necessity, and which therefore had means of exercising pressure on the king, was limitation of freedom of alien merchants, especially in their competition in internal trade, and in selling by retail." The following grant will illustrate somewhat this policy, (Grant to the City of Cork).[2] "No stranger merchant shall buy in the City from any stranger, corn, hides, wool or other merchandise, but only from the citizens. No stranger shall keep a tavern for wine saving on shipboard; or sell cloth in the city for retail...; and no strange merchant shall abide in the city to sell his merchandise for more than 40 days, save at the will of the citizens."

1. Wm. Cunningham. Growth of English Industry & Commerce, VI, p.350.
2. Cal. of Charter Rolls,1242, Jan.2. Westm.

A. S. Green[1] gives some other restrictions placed on the foreign merchant. He had to wait until the townsfolk had come back from early mass and had first been served with corn and malt, butter, poultry, meat, etc. for their households, and the bell struck, when he might take his turn. This author adds that the same restrictions were placed upon his selling as upon his buying. Food once displayed by him could only be taken out of town on leave of bailiffs. And, any citizen who helped a "foreign" merchant by buying or selling goods for him under his own name lost his freedom.

B. Some of the Hindrances in the Way of Commercial Development.

1. Excessive and unequal customs, tolls, etc.

The following extracts will give some of the many ways a merchant could be taxed. (From the Charter of Nottingham, 1230):[2] "We have also granted to the said burgesses and their heirs that they may take tronage (i.e. dues for use of public weights) in the town of Nottingham from merchandise which is sold by weight, as is wont to be taken in other boroughs and cities throughout England." (Also from Huntingdon 1252 charter):... "We have granted to them (burgesses of H.)... that they shall for ever freely take and have all the toll within and without the town of St. Ives in all places as well at the time of the fair as at other times, as the said burgesses best and most fully and freely took that toll before we took it into our hands." "And if anyone from another shire shall come who ought to pay custom, and departs with his toll if he is detained by the

1. A.S.Green, Town Life, p.39-40.
2. Ballard & Tait, British Borough Charters, p.252ff

prefect or anyone else his forfeiture shall be twelve shillings to the use of the lord, and he shall pay his toll." (Manchester, 1301).

Also, from the same, the following charter, by giving what the burgesses are free from, will serve to show what others had to pay: (Salisbury (New) 1227) "And that the citizens of the said city, living there, shall be quit of toll, pontage, passage, paage, lestage, stallage, carriage, and of every other custom throughout the whole of our land for all their goods which they are transporting by land or water." (Again, Faversham,1252): "Wreck-free, wite-free, lestage-free and love-cop-free."

2. Monopoly of trade to burgesses and members of merchant gild.

The following charters also will give a good idea of the monopoly thus held.[1] (Stirling,1226): "We also firmly forbid any foreign merchant from cutting his cloth for sale in our burgh of Stirling, except between Ascension Day and the feast of St. Peter ad Vincula, within which terms we will that they may cut their cloth for sale in the market-place of Stirling and there buy and sell cloth and their other merchandise..." (Shrewsbury,1227(b)): "That none buy fresh hides or unfinished cloth within the borough of Shrewsbury, unless he be in lot and scot and pay to assises and tallages with the said burgesses." (Uttoxeter,1252): "That none shall carry on any trading within the free community of the said burgesses without (paying) resonable and usual toll." (Chesterfield,1294): "No one but a burgess shall measure, cut or divide linen or woolen cloth, nor shall

1. Ballard & Tait,p.285ff.

buy hides or skins, whether green, raw, fresh or salted in the market or within the town of Chesterfield..." And monopoly to the merchant gild is shown by the following. (Hereford,1227):[1] "And that no one who is not of that gild shall do any trade in the city or suburbs except with the consent of the said citizens." The towns of Bridgenorth, Montgomery, Shrewsbury, Worcester all have the same regulations, dated the same year.

3. Other restrictions to freedom of trade.

The "lord's pre-emption of goods" was another hindrance to the freedom of trade to everyone. The following extracts will explain this custom. (Hartlepool,1250):[2]"And saving to us and to our successors our reasonable purchases of all goods on sale as our predecessors had in their times...". "Moreover, we and our successors in the aforesaid purchases of all goods on sale shall be preferred to all others." Also, (Dunster,1254-7): "And that, after the lord's purchases have been made at the sea-port or in the aforesaid market, the burgesses may buy forthwith, without hindrance or impediment, whatever they want to buy, so that others of the country may not make their purchase before them."

There were restrictions on brewing and sale of wines and beer: as illustrated by the enactments of Stirling,1226:[3] "we forbid also that any tavern be kept in any towns within the sheriffdom of Stirling, except where a knight is lord of the town and residing in it..." Then from a lawsuit of 1370 the following clause was cited from a charter of Edward I: "And that none brew any beer for sale within the limits of eight

1. Ballard & Tait, p.284
2. Ibid, p.298-99
3. Ibid, p.291ff

leagues from the aforesaid towns." Also enacted by Shrewsbury, 1256: " And that the same burgesses shall not be distrained to buy our wines, except with their good will and assent, provided, however, that when our wines are being sold there the sale of all other wines shall cease..."

C. Other miscellaneous features of trade life.

One custom was what was known as the "Burgess lot in bargains."[1] The following illustrates this: Grimsby, 1258 (ccl-5). "Item, no burgess of the said town shall be denied a share in any merchandise, so long as he was present at the purchase. Item, if any merchant with any merchandise whatsoever enter the port of Grimsby with his ship, and is unwilling to sell his merchandise except to one or more of his friends who have been wont to make loans to him from their own chattels, he or they for whom the said merchant reserved his merchandise shall have only the third part of such merchandise and the neighboring burgesses who were present at the purchase shall have two parts of such merchandise, provided that they hold land in burgage which they can sell and give--and this shall be the law concerning all ships that enter the port with any merchandise except the ships of fishermen from France and Flanders."...

Another custom was that of the "handclasp bargain." This is shown by the following extract concerning this type of bargain: Grimsby, 1258.[2] "Item, that no one shall make bargains by handclasp for herring or other fish or for corn, except burgesses of the said town, and that handclasp bargains shall hold unless the merchandise, for which the bargains were made is worse than was agreed, and of this a reasonable valuation

1. Ballard & Tait, p.299ff.
2. Ibid, p.301

shall be made by men worthy of credit."

There are many regulations regarding regrating and forestalling. The following is taken from regulations of Oxford University,1255:[1] "No regrater shall buy victuals in the town of Oxford or outside, coming towards the town, nor shall he buy before the ninth hour, and if he do so, he shall be amerced and losed the article purchased. Every baker shall have his seal--shall sign his bread so that it may be known whose bread it is... Also, from those of Great Yarmouth,1306 :.."And by the hands of those bringing those merchandises and wares and wishing to sell them there, or by the hands of their servants, they shall be exposed for sale, and shall there be sold to and bought by whomsoever will without any forestalling or brokerage or any other hindrance whatsoever. So that no forestaller, broker, or other person whosoever shall go to meet the merchants coming to the aforesaid town with fish and other merchandise and goods for sale to buy anything therefrom or to make any forestalling or brokerage..."

There was a certain amount of confusion due to conflict of authority over charters, grants and privileges. Towns held ancient charters, while the king granted special ones, sometimes overlapping or contradicting privileges already given. The following is one example of this: ("A letter patent which conflicts with rights given lord of a fair;1291)[2] "Hamo of Bury St. Edmunds brought a letter patent of Sir Roger de Lisle, clerk of the great Wardrobe, attached to this roll, ordering that he be admitted by the keepers of the Fair of St. Ives to measure

1. Ballard & Tait,p.293
2. Bland, Brown & Tawney,p.163: Court Rolls,178,97,m 2d.

woolen cloths, made in England, linen and canvass. And because the charter of the lord the King touching the fair orders that no bailiff or minister of the lord the King in any wise interfere with the fair...whereby the Abbot and Convent of Ramsey and their bailiffs should be prevented from having administration of all things pertaining to that fair...answer was made to the same Hamo by the steward that he would in no wise admit him to execute such office...unless Hamo would come into court and yield up his letter patent into the hands of the steward..." This he did and "he is admitted for the present."

## Part III. CERTAIN OUTSTANDING COMMERCIAL DEVELOPMENTS OF THE PERIOD.

### A. The Merchant Gild.

#### 1. Origin and history of the Merchant Gild.

The earliest distinct references to a merchant gild, according to Charles Gross, an authority on the subject[1] are (1) in a charter granted by Robert Fitz Hamon to the burgesses of Burford (1087-1107); and (2) in a document by Anselm, Archbishop of Canterbury (1093-1109). Therefore, it is with the union between England and Normandy when greater security for trade made possible its development both without and within the country, that the merchant gild began its history.

From Ashley[2] we learn that with the reign of Henry I we find charters granted to the following towns by king or lords, in which the merchant gild is expressly recognized: Bristol, Durham, Lincoln, Carlisle, Oxford, and Salisbury and Southampton. By the time of Edward I, there were 92 towns having merchant gilds which were represented in Parliament. (Gross makes this number having representation and merchant gilds as 166, and he estimates that at least one third of English boroughs had gilds merchant).

Gross[3] finds that the privilege of having a gild merchant ranks among those given a free borough: the independent judiciary, the fee-farm rent, exemption from tolls throughout the realm, the right to hold fairs and markets, election of town officers by burgesses, and others, until the complete exclusion

1. Chas. Gross. Gild Merchant, V.I, p.2 & App.B.
2. Ashley, V.I., p.71.
3. Gross, V.I., p.2.

of the sheriff and other royal officers from interference in borough affairs was accomplished.

The same author says "It (the merchant gild) was doubtless at first merely a private society, unconnected with the town government, having for its object the protection of its members, the tradesmen of the borough, and the invigorated trade interests." But during the 12th and 13th centuries it was a recognized part of town constitutions.[1]

There seems to be difference of opinion about the relation between the merchant gild and the earlier Anglo-Saxon fraternities. Brentano in his introductory chapters[2] of "English Gilds," edited by Toulmin Smith holds the theory that the later societies had their origin in the earlier fraternities, and also confuses their development with the gilds on the continent and with those in Scotland, whereas the development of the gild in England was different from either. He also takes London as an example to prove some of his theories, whereas it is doubtful whether London ever had a merchant gild as we understand it. He has a number of followers in all or in part of his theories. In his very excellent work, Gross refutes very successfully this idea of the merchant gild being a survival of the Anglo-Saxon fraternities, and finds no trace of a gild merchant in that period. He presents his arguments in logical manner, and always backs them up by adequate documentary evidence. And this is where Brentano's work is lacking, for as Gross says, "Brentano asks us to accept most of his theories on faith without proof." Later writers quoting him as authority, naturally have the same failing.

1. Gross V. I., p.158
2. The title of Brentano's article is: "On the History and Development of Gilds."

(For any further discussion of these points of difference with authorities who hold varying views, see Gross's Gild Merchant.)

To continue with the theories of Gross,--he refers to Thorpe's Ancient Laws and Institutions of England, 97, for the statement that the dominant industry in England up through the 10th century was agriculture and not trade. He says that the merchant gild may have been an adaptation of the gild idea to newer trade interests, or an entirely new institution brought over from Normandy.[1]

2. Aims, Functions, and Organization.

The most important reason for having a merchant gild was to secure the monopoly of domestic trade to its members. The following extract[2] taken from a charter of John to the town of Ipswich in 1200 will show this: "We grant a gild merchant with a hanse and other customs belonging to the Gild, so that no one... who is not of the Gild may merchandise in the said town, except with the consent of the burgesses."

Ashley says,[3] that in addition to the main reason, as given above, members were exempt from troublesome taxes and imposts of various kinds. Also, there were other highly important functions performed by the gild. Among these were fair dealing in trade and the maintenance of a high standard of quality in goods sold. "The rolls contain numerous records of fines for dishonestly dyeing wool, for mixing bad wool with good, for short weight, for selling at morethan the assize or fixed price, as well as for the offence of forestalling."

1. Gross, V.I., p.158.
2. Ibid, V.I., p.6.
3. Ashley, V.I, p.75.

As illustration of the foregoing: "Robert Alditch was charged with offending the laws of the Gild, having made a blanket in one part of which was a good woof, but elsewhere in many places weak stuff. He also caused a piece of weak and inferior vermillion cloth to be attached to a good piece of the same kind of cloth. It was adjudged that he should pay a fine of 6s,8d. and if he should commit another offence against the Gild, he should be expelled."[1]

Besides its interest in the material advancement of its members, the Gild looked somewhat after the needs of its members, helping the poor and sick, and burying the dead. The following from Ordinance of the Holy Trinity of Lynn Regis, par.16 is an example of this side of the Gild's activities: "If any poor brother shall die, the alderman and brethren shall see that his body be honorably buried, of the goods or chattels of the house, or out of alms, if he has not the wherewith to bury himself."[2]

Ashley finds[3] that although local differences occur, there is a certain similarity of organization throughout England. Each gild had an alderman (sometimes two), with two or four assistants, usually known as wardens, or echevins; sometimes in addition, there were stewards. Gross gives some ancient officers in his account: "The Rulers of the Walling, the Heath Keepers, the Leave Lookers, the Ale Tasters, the Fire Lookers, and the Kennel Lookers."[4]

Generally, there was a small inner council numbering from 12 to 24. The alderman and wardens, besides presiding over meetings, managed the funds of the society, and estates, when the Gild purchased or acquired land.

1. Gross, V.II,,p.143.
2. Ibid, V.II., p.150.
3. Ashley, V.I., p.72ff.
4. Gross, V.II., p.174.

(From Domesday Book of Ipswich in 1200). After receiving its charter, the town of Ipswich, through its burgesses "ordain that in the said borough there shall be elected by the common counsel of their town one approved, lawful, and fit man to be alderman of the Gild Merchant in the same borough; that four approved and lawful men shall be associated with him; and that the alderman together with his four assistants shall be sworn well and faithfully to maintain the said Gild and all things appertaining to it"...(After election, these) "declare in presence of all the people of the town, that all who are of the freedom of the town shall come before the alderman and his associates on a certain day--when and where to be hereafter made known--to constitute a Gild, and to give their hanse to the said Gild"...(They further declare the following) "All the statutes of the Gild Merchant shall be entered in a certain other roll, as is customary elsewhere in cities and boroughs where there is a Gild Merchant." This roll is to be kept by the alderman.[1]

Also the head of the fraternity, in addition to duties already mentioned, was to see that its statutes were not infringed upon, take charge of the common seal and muniments, settle disputes between members, see that dues were collected. The revenues came from entrance fees, fines, assessments and tolls, and profits from monopoly of dealing in certain commodities.

The meetings were called "gilds" or "morning talks" (morghespeche, maneloquium.) The number of these held during the year varied from annual, semi-annual, and quarterly according to local choice. At these regular meetings much eating, drinking,

1. Gross, V.I., p.23ff.

and merrymaking took place. At Ipswich the brethren came together once a year "familiarly to feast and to refresh their bodies with food and dainties." At Yarmouth they regaled themselves with "frometye, rost byffe, grene gess, weale, spyce cake, good bere and ale."[1]

From the same, we find that among the fines and entrance fees were a collation, a bull, beer and wine. At Guilford bull-baiting was a favorite amusement,--new members usually providing both feast and bull. Good works play a less prominent part in the gilds merchant, though the name of a gild was often that of the patron saint, or Trinity; and among the statutes, attendance at funerals of deceased members; prayers for the dead; assistance to brothers in poverty, etc.; settlement of disputes by officers of the gild, without other legal aid; are laid down and urged to be followed by the brothers of the gild.

Some general regulations follow:[2]

(1) Payment of toll required on all wares bought or sold by strangers. (Members being free or discriminated in favor of).

(2) Non-gildsmen forbidden to keep shops or sell by retail. (This sometimes limited to certain wares).

(3) In many places the unfranchised, "forenseci" were not permitted to buy certain things.

(4) Sometimes the last two regulations referred only to strangers trading with each other; and these were apt to be suspended during fairs and markets.

(5) Strangers must bring their wares to the "Common Hall" or other special place for sale.

1. Gross, V.I., p.31.
2. Ibid, V.I., p.47ff.

(6) They were not to stay longer than forty days, and were watched during this time.

(7) Non-gildsmen could not enter partnerships with gildsmen.

(8) Nor could they have brethren's right of pre-emption.

In all these we see the restrictions placed on strangers, even if they were not absolutely forbidden to trade. But more on this subject will be taken up later.

The following description of the constitution of the Andover fraternity will serve as example of the gild: It was divided into two houses, the superior and the inferior; it had two classes of brethren, those possessing the "free gild," and those having the "villein" or "hanse gild." The "forwardsmen" (covenant-men), were a higher type or rank, while the "custumarii" (probably like the hanse gildsmen, subject to periodic payments), were of a lower, and were restricted. Dues at Andover were called "scot-pennies," "hanse-pennies," and "sige-pennies." With the consent of the brethren, the gildship might be transferred, for payment by the recipient.[1]

3. Membership in the Gild Merchant.

As we have already seen, membership in the gild allowed one to carry on trade with certain privileges denied to non-members. Ashley[2] says that in some places non-members were restricted in their trade to food, or certain commodities. They were often forced to join the gild, because of repeated fines. In fact, in some cases, the entrance oath of new members included a promise to inform gild officers of persons

1. Gross, V. I., p.31.
2. Ashley, V. I., p. 70.

able financially to join, yet who had not become affiliated with that organization.

Each member was expected to agree to government of the gild for the common good of all, and to call for assistance from his brother members in the society. In return, he received protection from the organization, not only at home, but anywhere in England.

Gross[1] reports that the entrance fees, and probably other dues, were paid into the gild chest to be spent for the common good of all of its members. These entrance fees had various names, among which were: "the hanse," "the bika," "the fordede" or "fordele." Besides these fees and the oath of fealty, the newcomer had to produce sureties who were responsible for his fulfilment of all obligations imposed by the gild.

Eldest sons and the heirs of gildsmen, according to Ashley[2] had a right to free admission; and younger sons, on paying smaller entrance fees than others. Members could give and sell their rights (this at first), and membership was not restricted to the town itself; members from distances as well as from the surrounding locality were allowed. As an example of this, Gross gives the following:[3] "In 1281 the burgesses of Leicester and men belonging to the neighboring fee of the Bishop of Lincoln entered into an agreement, according to which all worthy tenants of the Bishop's fee were allowed to enter the Gild Merchant of Leicester, and to enjoy all the franchises and free customs belonging to that Gild within the town, without, and everywhere. And for this the aforesaid tenants of the Bishop grant that in

1. Gross, V.I., p.29.
2. Ashley, V.I., p.71.
3. Gross, V.I., p.53ff.

the future they will be in scot and lot with the aforesaid burgesses in all things belonging to the Gild, according to their assessment." Later, special occasions are given when they are to assist the burgesses: when the town, because of visits of king, queen, other distinguished guests, made presents to these personages, to ensure continuance of the franchise of the town; and when royal fines were imposed on the borough. The "firma burgi" had to be met, otherwise the charters would be confiscated. " To drink the Gild Merchant," Gross says, meant, in Winchester, to hold a meeting for the purpose of assessing the merchants. It was probably found that "spyce cake and good bere and ale helped to loosen the purse-strings of the brethren."

Gross says that women were not excluded from membership[1] and villeins were allowed in some places, and debarred in others. Ashley adds to this that if a woman inherited gild membership, she could designate husband or sons, or could exercise the gildship herself.[2]

Ashley further states that the most usual term for rights of membership was "seat," sedes. This referred to their original place in the market. One member was said to have a seat below or above another, as a consequence. The word gild was also used, though this term was used more frequently to denote the meetings of the society, especially the solemn gatherings of once or twice a year.

4. Grants of Merchant Gilds to towns.

The following is a partial list of grants of merchant gilds with dates; To Stirling,1226; Hereford,1227; "that they may have a merchant gild with hanse and other customs and liberties be-

1. Gross, V. I., p.30.
2. Ashley,V.I., p.71.

longing to that guild"; to Bridgenorth,1227; Montgomery,1227; Rochester, Shrewsbury and Worcester, all in 1227; to Liverpool and Drogheda (South), in 1229; Wigan,1246; Drogheda (Meath)1247; to Deganway,1252; Brecon,1277-82; Aberystwyth,1277; Builthand Rhuddlan,1278; Conway,Carnarvon, Criccieth, Harlech, Bere, Flint, Rhuddan again, all in 1284; Overton,1292; Beaumaris,1296; Caerwys, 1290. All of these grants were in practically the same wording as the one given for Hereford,1227.

Other examples of grants, with variations from those noted above, follow: For Elgin, 1234: "Know ye that we have granted to our burgesses of Elgin, they may have their merchant guild in the same burgh as free as any of our burghs in all our kingdom has its guild."

Newcastle-under-Lyme, 1235, has the following franchise: "And that the burgesses of the same town have a merchant guild in the same town with all liberties and free customs."

To Chester, 1233-7: "Item, I have granted and confirmed to my citizens of Chester their merchant guild to be had and holden as freely, quietly and honourably as they held it in the time of my uncle, lord Ranulf, earl of Chester and Lincoln."

To Scarborough, 1253: "We also grant and confirm to the said burgesses all their liberties, laws and customs and especially their guild merchant and their hanses in England ane Normandy, and their lastages quit along the whole sea-coast; and that they shall have and hold the aforesaid laws and customs with all the liberties pertaining to their aforesaid guild and their hanses."

To Reading, 1254 (Fine): "And they shall have their merchant guild with all its appurtenances for ever." (And for this

grant to the burgesses, the abbot and his successors were allowed to choose a warden to be one year in office who should take oath to be faithful to duty and to the abbot.) Also, every legitimate son of a burgess to pay 4s. on entrance to guild. "And from every foreigner ½ of the fine which he can make with the aforesaid warden, under the supervision of a monk assigned by the said abbot and his successors...And moreover the aforesaid abbot and his successors shall henceforth have from every burgess in the merchant guild 5d. every year at the Feast of St. Peter ad Vincula under the name of Cheping gavel."

Among others are: Bodmin, 1225-56; Orford, 1250; Coventry; to Welshpool, 1241-c.1286: "That the aforesaid burgesses have a merchant guild and with hanse and with the assize of bread and beer, and with all the liberties to the said guild pertaining."

To Kirkham, 1296, the following confirmation is given:"... a free guild in the same borough, with the same liberties which pertain to a free borough and free guild as is better and more freely contained in the charter which we have from our lord the king."

To Lynn, 1305, (In consideration of their expenses on behalf of the king and for a fine): "That they and their heirs and successors, burgesses of the said town, shall have for ever their merchant guild, with all lands and buildings belonging to that guild, saving to the chief lords the service due and accustomed therefrom."

5. Relation between the Gild and the Borough.

Authorities seem to find difficulty in stating the exact relation between the gild and the borough. One view is that

the gild merchant was merely an ordinary mercantile association, devoid of all public administrative functions. The opposite is that the gild was identical with the borough; that gild law was the law of the town; that gild-ship and burgess-ship were one. Brentano holds this second theory, and has his following. He says in his essay referred to before, that these fraternities were organized in the towns for protection of trade, independent of the town, but that, because the members were those who possessed lands of certain value, "civitas," the citizens and the gild became identical. The reference to a grant to Beverley of Gild and "all liberties, with the same laws that the men in York have in their city," which he seems to think proves his case, does not seem adequate.

Cunningham[1] gives the following opinion: indirectly the gild merchant may have been an important factor in gaining self-government, as its members were recognized as competent to regulate trade, and to have certain fiscal responsibilities, as including wealthy townsmen among its membership, yet any direct statement of precise relations between gild and borough is not easy to make.

Gross[2] after much weighing of evidence, gives as his conclusion that the Gild Merchant was a distinct portion of the general administration of the borough, having certain circumscribed functions of its own. In the Ipswich grant mentioned above, in addition to the officers elected to govern the town, certain other officers in addition, were elected to administer the Gild. The laws of the borough and the statutes of the gild are distinct and are to be entered in rolls for the guidance

1. Cunningham, V.I., p.211.
2. Gross, V.I., p.61.

of bailiffs and aldermen respectively. It was that department of the local government devoted to the maintenance and regulation of the monopoly of trade. As further evidence Gross offers the following[1]; Gildsmen and burgesses, gild-ship and burgess-ship also are distinct ideas. The terms mercatores and burgenses seldom, if ever, are used synonymously. Women, monks, and heads of religious houses belonged to the gild, but were excluded from burgess-ship; many members of the gild lived at distances from, or in the neighborhood of, the town. (In gild roll of Shrewsbury, the names of "forinseci" are entered in a group separate from those of the burgesses).

Gross goes on later to state[2] that this state of affiars was true in the 12th and 13th centuries when the merchant gild was at its highest point of development. Sometimes antagonism grew up between gild and borough, and in other times or places almost complete amalgamation occurred later on in the history of both.

6. Relation Between the Merchant Gild and the Craft Gild.

Craft gilds are first mentioned in the reign of Henry I, about fifty years after the appearance of the merchant gild. Gilds of the Weavers of Oxford, Huntingdon, Winchester, and the Fullers of Winchester, etc. are recorded in the Pipe Roll of 31 Henry, p.2,5,37, according to Gross.[3]

In this final phase of the subject there is also much variance among writers. Brentano and his following take the view that as the merchants became wealthier and stronger, they excluded the artisans from membership in the gild. These excluded ones formed associations for self-protection in their

1. Gross, V.I., p.65.
2. Ibid, V.I., p.73.
3. Ibid, V.I., p.114.

special fields against the ruling classes. The same writer believes that there came to be active strife between the merchant gild and the craft gild, and that the latter became the victor, thus ensuring more democracy in municipal government.[1 & 2]

On the other hand, Gross[3] maintains that craftsmen were admitted freely to the gild merchant in the 12th, 13th, and 14th centuries. Lines of demarkation were very slight;--every master craftsman was a member because he bought raw material and sold finished products. He also opposes the idea of general struggle between the two organizations. While he admits some controversy in the north of England, when the craft gild did struggle and win some measure of participation in government, yet usually the craft gild had not political functions, being merely an economic organization being strictly subservient to town officials. Craft gilds were allowed only because of the yearly "ferm" paid to the crown, and had nothing like the importance of the merchant gilds, still they had some importance because they gained complete monopoly of working and trading in their branch of industry. (The weavers of York obtained from Henry II a charter giving them monopoly of weaving throughout York, A.D. 1220.)[4]

Again, according to Gross[5] the craftsmen remained in the common merchant gild, but with each new craft gild organized, the merchant organization was thereby weakened. In the smaller and agricultural communities, therefore, the merchant gild

1. Brentano, "Craft gilds," in his History & Development of Gilds.
2. Ashley, V.I., p.82.
3. Gross, V.I., p.107ff.
4. Rot. Lit. Chaus.i, p.421.
5. Gross, V.I., p.114ff.

stayed in power, but in the larger industrial centers, where the subdivision into various craft gilds took place, the merchant gild lost much of its power and solidarity. This was a gradual evolution. To quote Gross, "Whatever power they (the crafts) did obtain, whether aspotent subsidiary organs of town government for the regulation of trade, or as the chief or sole medium for the acquisition of the municipal freedom, or as integral parts of the common council, was, generally speaking, the logical sequence of a gradual economic development, and not the outgrowth of a revolutionary movement by which oppressed plebeian craftsmen endeavored to throw off the yoke of an arrogant, patrician Gild Merchant."

7. Conclusion of Chapter A on the Merchant Gild.

While the merchant gild, as a whole, may have had some beneficial results, such as bringing about better and fairer standards in the actual transactions of trade, and in the encouragement of a certain amount of loyalty and charity among its members; yet, the more important effects of the gild were destructive. Instead of bringing freedom of trade to the borough where it existed, it imposed such burdening restrictions that it hindered commercial development there, and diverted the flow of commerce to the rural districts, or to some new industrial town which had grown up without the old traditional merchant gild. To quote Gross again,[1] (when he is giving his opinion of the gild as an institution): "That (it) blindly aimed to reduce free competition to a minimum, regarded what we call legitimate speculation as a crime, deflected from the town every powerful current of trade, mercilessly obliterated the spirit of mercantile enterprise, and crushed out every stimulus to extensive production."

1. Gross, V.I., p.51.

B. Medieval Fairs of England.

1. Origin and history of.

Annual fairs were held, according to Cunningham[1] at a very early period of England's history; first at places which were memorials of the dead, and later at shrines of religious saints, or monasteries, where pilgrimages were apt to be made. Thus religious gatherings served as great opportunities for trade. These pilgrimages opened up routes which could be used for other purposes, and such centers would be available for trade with more distant parts, so that annual fairs would be held on these sites. Ashley[2] says that September I was a favorite time, at the festival of St. Giles, for fairs, as at that time stores for the winter could be obtained. Fairs were also said to have arisen from the gatherings of people in towns or villages on feast days of some saint to whom church or town was dedicated. That opportunity was taken by feudal lord to graft business, to his advantage, onto these solemn religious festivities.[3]

In his Six Centuries of Work and Wages,[4] Rogers has the following to say about the origin of fairs: "It is not easy to understand their origin. They were often held...outside the mark, or manor, or parish, as the great fair on the north hundred of the city of Oxford." " The franchise of a fair was of great significance to the possessor thereof. It was always supposed to have originated with a grant from the Crown, or to be of prescriptive antiquity, and consequently to imply such a grant."

1. Cunningham, V.I., p.90.
2. Ashley V.I., p.99.
3. T. Rogers. History of Agriculture and Prices, V.I., p.141.
4. T. Rogers. Six Centuries of Work and Wages, p.36.

" Hence they were held, (because of their religious connections) in churchyards, till the practice was forbidden by a statute of Edward I."

Domesday Book does not mention fairs, but this might be, according to Cunningham,[1] because the king had not granted the tolls to anyone but kept them himself, and they thus might have been omitted from the Records. However, "the mention of Irish merchants," he thinks, "visiting Cambridge with cloth (Liber Eliensis,II,32) is at least suggestive of a fair there before the conquest." The earliest grant is of 1110, according to F. W. Maitland.[2]

After churchyards were forbidden as places to hold fairs, charters were granted to certain places,--towns and places of strength, so that magistrates could keep order there.[3] Walford says that fairs and markets could only be held by royal grant or by prescription, unless by an Act of Parliament. He continues: "There is supposed to have been enacted 'Articles of the Office of Escheatry'. Among duties of this office...were... hold inquest of all markets, fairs...unjustly levied without license of the king." (1321,c. Ed.II.)

By 1478, Cunningham[4] finds that while fairs were still the greatest opportunities for internal trade, yet the courts of Pie Powder were working badly and complaints were made that bailiffs and stewards were misusing their power. These bad practices are said by some to be reasons for the decline of fairs. Cunningham gives reference for this last statement, (17 Ed.IV.C.2); The fair was less frequented, so that the

1. Cunningham, V.I., p.171.
2. Maitland, F.W. Select Pleas, Manorial,I., 131 ( Selden Soc.)
3. Walford, Cornelius. Fairs, Past, & Present,p.12-25.
4. Cunningham, V.I., p.401.

Lords lost the tolls and the public were not so well served with goods.(1R.III,c.6.) Cunningham himself thinks other causes were responsible as well. Among these the bad condition of the highways, making communication difficult; the granting of so many new fairs in progressive centers taking away from these older fairs; and changes affecting tillage, etc.

2. Purpose and regulations of fairs.

As we have said fairs could only be held by royal grant, or prescription or act of Parliament. Rogers[1] states that "the object of the fair was twofold. It was to supply a market in which goods which could not be found in the ordinary town market would be procurable, and in which there would be a wider market for ordinary goods. The trader did not exist in the villages." Cunningham thinks that by far the greater part of internal commerce was carried on in these fairs. Here the people of the inland had their only opportunity of getting some imported articles, like pepper; as well as many necessities to be had in supplies, which were unobtainable elsewhere.

Rogers[2] suggests rather a vivid picture of the "Mixed multitudes" of a fair; nobles who came for "rich robes of peace," armour from Milan, war horses from Spain; the franklin to get materials for his farm and furniture for his house, as well as additions to his stock; bailiffs of college or monastery for clothing. On holidays some nearby canon said mass in a booth restricted for religious worship.

A fair or a market could be no nearer than seven miles from one already established, otherwise it was considered a nuisance.[3]

1. Rogers, Six Centuries, p.37
2. Rogers, Hist. of Agriculture and Prices, V.I., p.143
3. Walford, Fairs, Past and Present, p.25.

The following is an example of fair being a "nuisance." Abbot of Shrewsbury brought writ of nuisance against the commonalty of Shrewsbury because they had wrongly held a fair to the nuisance of the Abbot's free fair in the same town. (This fair was held only shortly before his fair; consequently was taking away from his profits). The town disputed the claim and showed a charter from the king.[1]

A case where fairs were changed because of disturbance to religious life was found under Henry III in 1246[2] "Grant to Robert, the Abbot, and the monks of St. Bennet, Hulme, of two fairs yearly on the vigil and the feast of St. James, which fairs were previously held near the Abbey, whereby the due tranquility of religious life was disturbed; grant also of a weekly market there on Tuesday."

We find in Walford's work on fairs some regulations about the duration of fairs:[3] No person shall keep a Fair longer than he ought to do...Ed.III, (Every lord had to publish how long his fair was to last) "The penalty if any do sell Ware at a Fair after it is ended" Ed.III,(penalty being double the value of ware sold forfeit to the king). Ashley says,[4] that the lords of fairs themselves tried to prolong their fairs, so as to injure lords of other fairs, and to defeat the king's policy of forcing trade into particular channels. Cunningham[5] says the Statute of Northampton of 1328 enacted the law that proclamation was to be made at beginning of a fair how long it was to last, and if the lord let it last longer than time of his charter, right of receiving tolls would be forfeited. Also, later another act

1. Yrbk. of Ed.II, 1310-11,V.VI, p.93-97.
2. Calendar of Charter Rolls,31 Henry III,1246,15 Nov. Marlborough,V.I., p.309.
3. Walford, p.32.
4. Ashley, V.I., p.1/
5. Cunningham, V.I, p.173.

imposed on merchants who sold after fair was over a fine of double the value of the wares sold, and of this the informer was to have a quarter. (Statutes of the Realm i, 260,266).

The fairs were to be in the same place each year, and the stalls and booths in the same place too. The following extracts[1] will demonstrate these facts: "Be it also known that the fairs of cattle shall remain every year in the field of the said Alan, and as it was formerly wont to be, saving to the said burgesses and their heirs the customs thence arising." And again:[2] (Chesterfield,1226-7). "Moreover, the said William Brewer and his heirs have granted that the aforesaid burgesses and their heirs shall have and hold the stalls in the market place which they for the future wish to hold, rendering yearly for each stall 6d. except that the said William Brewer and his heirs shall have all the stall at the time of the fairs every year for his own use." Chesterfield, 1294: "And the burgesses shall assess their stalls and cause them to be fixed where they will in the market without the license of myself and my heirs or our bailiffs, as they were wont to do of old, without any fee. And I, John, and my heirs shall have all the stalls which they hold of me and my heirs at the time of the fairs, if we wish."[3] Also, "...In the time of fair there, the citizens shall choose yearly the half they will of each quarter ofthe place, if they need as much, to place their shops and stalls upon and that shall be held by them for the time of the fair quit of picage, stallage, toll and other customs, receivable by the said prior and convent, so that the citizens who may

1. Ballard & Tait, p.277.
2. Ibid, p.275-76.
3. Cal. of Ch. Rolls, 1300-26,V.III,1306, 4 Dec. Lanecost,70.

wish to have shops and stalls in the said fair shall come to that place every year on the Friday on the morrow of Ascension and then first choose their places for the time of the fair..." (Agreement between the Prior and Convent of Holy Trinity and the bailiffs, citizens, and community of Norwich).

During fair time the sale of goods was not to be carried on except in the case of victuals. [1] A charter granted in 1255, under Henry III stated that no one in the town of Southampton should sell or purchase vendible goods except victuals, during the fair of " St. Giles on the Hill." If a merchant comes to Southampton and swears that he did not come for that fair or on account of the fair, then he should be allowed to come and go freely "without any compulsion to come to the fair, provided that during its continuance he make no sale in the said fair save of victuals..." In order to enforce these measures, says W. A. Bewes[2] the Bishop of Westminster had his officers "posted along the highways with power to forfeit to his lordship all goods bought and sold within seven miles of the fair, in whose centre stood the 'pavillion' or 'bishop's court'." (Fair of St. Giles).

Bewes also says that these privileges granted to fairs and restrictions on trading elsewhere during fairs, and in some cases wholesale trading except at fairs were resented as a monopoly. As the towns multiplied and communications improved these were felt to be more and more oppressive.

1. Cal. of Ch. Rolls,1255,24Ap. Westminster, Henry III.
2. W. A. Bewes. Romance of the Law Merchant, p.90.

3. Names, location and brief description of some of the more important fairs.

Some of the more important of these medieval fairs were: Stourbridge Fair, near Cambridge, Winchester, St. Ives in Huntingdonshire, Boston, Leicester, Nottingham, Oxford, and St. Bartholomew Fair in Smithfield.

a. Stourbridge Fair.

This fair originated in a fair belonging to the Master of the Lepers Hospital, and was held on Holy Cross Vigil and Day. This was the greatest of English fairs, according to Cunningham[1] although he says from point of view of the Londoner of 1189, Boston and Winchester fairs appear to have been of more importance. Cambridge, he says, was of advantageous geographical location, so that it was a natural center for trading. Its river formed a natural canal by which goods could be brought easily from the port of Lynn. He continues, "It was here that Oxford College laid in their stock of salted eels for use during lent." Also, wool and woolen cloth were largely bought here. In connection with its convenient location, Hubert Hall says[2] of the time, 1216-1273: It was the most conveniently located for exchange or export of products of eastern countries, and for sale of commodities of the Baltic trade. It was situated in the open country and its streets of temporary booths covered a total area of half a square mile. Practically every trade and nationality were represented there, though the chief business was sale of wool and cloth...A. L. Smith's account[3] of an earlier period: 1066-1216, calls it "the greatest of all these fairs...Here merchants from Hamburg, Bruges, and Strasburg, from Rouen and

1. Cunningham, V.I, p.172
2. Hubert Hall in Traill's Social England, V.I, p.463.
3. A. L. Smith " " " " V.I, p.365.

Bordeaux, and from Florence and Genoa, all met." The farm bailiffs bought annual stores of pepper, iron goods and tar, and sold wool and hides, cattle, corn, and hay.

The account of this fair by Rogers[1] describes it as being proclaimed on the 4th of September and opened on the 18th for three weeks. It was held under the authority of an for the profit of, the Corporation and City of Cambridge. Temporary buildings began to be erected on August 24th. "Builders were allowed to destroy the corn grown on the spot if it were not cleared before that time, and on the other hand, the owner of the soil was impowered to destroy the booths on Michaelmas-day, if they were not removed by that time." Space for the fair was about one-half mile square and this was laid out in streets where some particular trade was carried on, as cloth, leather, books, etc., and later every kind of commodity which could be made and sold. A court of pie powder was held by the mayor or his deputy. "The Gascon wine-grower was represented, also Spanish and Grecian wine merchants. The Hansa towns merchants brought furs, and much else probably originating in the East. The products of England were, according to his account: wool, tin, salt, lead, iron-either raw or manufactured; also agricultural produce, only to be equalled by Flanders.

b. Winchester Fair.

According to H. Hall[2] of greater importance than Stourbridge Fair in the 13th century was the fair of Winchester, because it was connected with the center of south-eastern trade, Southampton, and the ports of London and Sandwich. Ashley[3] gives a

1. Rogers, Hist. of Agric. V.I., p.141ff.
2. H. Hall, in Traill's Social England, V.I, p.463.
3. Ashley, V.I, p.100ff.

good description of Winchester Fair. It was held for three days on a hill outside of Winchester. It was originally thus granted by William II to the Bishop. Later the time was lengthened to sixteen days, from August 31st to September 15th. He gives the following as the ceremony of opening the fair: On the first morning, representatives of the bishop proclaimed the fair, received keys of the city, took possession of weighing machines in the wool market; then, with mayor and bailiffs, in pavillion on the hill, appointed the governing officials for the time of the fair. The wooden shops were divided among merchants of different localities, and also according to wares for sale.

He goes on to say that a wooden palisade with guarded entrance surrounded all, but even so, some determined to escape toll were not prevented from doing so by digging their way in under the wall. All trade in Winchester and a "seven-league circuit" was suspended by compulsion,--guards being on duty for this purpose. In Southampton, outside the circuit, nothing was to be sold but victuals. "There was a graduated scale of tolls and duties: all merchants of London, Winchester, or Wallingford who entered the fair during the first week were free from entrance tolls; after that date new comers paid tolls, except the members of the merchant gild of Winchester." Examples of tolls, etc.: "For weighing a bale of wool, fourpence was paid as the weigher's fee." The Bishop of Winchester forbade merchants to stay after the fair was legally over for the purpose of escaping tolls. The penalty for this was excommunication. To refer again to H. Hall's article[1] he says that the strictest

1. H. Hall in Traill's Social England, V.I, p.463.

police and close supervision of weights and measures were provided, and as this was really to the advantage of the merchants, they were glad in return to pay the heavy entrance-toll and "fees at the wool-beam." There were exceptions to these,--cases are recorded where certain traders tried to avoid payments by burrowing under palisades and staying after the fair to escape fees.

c. Fair of St. Ives.

The following extract[1] is given concerning the Fair of St. Ives, 1202: A fair granted to the Abbey of Ramsey at St. Ives, "to begin on the fourth day before the feast of St. Lawrence and to endure for eight days (August 6-13); to have and to hold for ever, so nevertheless that it be not to the nuisance of neighboring fairs."..."That the aforesaid abbot and monks, have and hold the aforesaid fair well and in peace, freely and quietly, entirely, freely and honourably, with all liberties and free customs to such fair pertaining..."

The following account[2] is of an original charter made by Henry I, and confirmed by Henry II of a fair, which later became subject of dispute. Henry III and the Abbot disputed among other matters about the profits made by the king after the fair was over. Therefore Henry granted the privileges of the residue of the fair, stallage, tronage, pleas and all other profits to the Abbot and Convent for a fine of 500 marks and for an annual rent of £50... The fair came to be one of profit to the monastery, which supported twenty monks. Its profits in 1207 were £101 and in 1211 were £180. The main source of revenue were rents of stalls, houses and booths, and the per-

1. Bland, Brown and Tawney, p.158. (Cart. Rams.f.191b.1202.)
2. Gross, Chas. ed. Select cases concerning the Law Merchant, V.I, Introd. p.xxviii-xxxi, (Selden Soc.)

quisites of the court. The frontage of many of the houses were at the disposal of the Bishop during the fair and yielded high rents. (Goods were not allowed to be sold in rear of houses). Rows of booths and stalls were erected in Bridge Street bearing names of the various trades, towns, and nationalities. Many of the Abbot's tenants were bound to bring bundles of rods to make hurdles for the walls between the booths. Beer, oats, and fish were sold from boats in the river (Ouse.) Merchants came to buy and sell hides, wool, cloth and wines chiefly. Chief officers were a steward and several bailiffs; also a warden, or helper, usually a monk, and a clerk of the court and from two to five alnagers of canvas. A constabulary force was provided by St. Ives and twelve neighboring townships or manors of the Abbot.

d. Boston Fair, or Fair of St. Botolph.

From the Records of the Borough of Leicester[1] comes the following extract: "All the aforesaid merchants (of Leicester)... shall have andhold their aforesaid merchandise at Boston fair in the shops at which the merchants of Leicester are or were accustomed in past times to have their cloth...and it was ordered that the drapers are to be on the South side and the wool-dealers on the north side; and that if any of them shall contravene this, he shall give for each sack of wool a half mark under the name of amercement, without any remedy."

As has been said before, to the Londoner the fairs of Winchester and Boston were of more importance than that of Stourbridge. A. L. Smith in his article on the condition of trade and industry from 1066-1216[2] gives the following which shows

1. Mary Bateson,ed. Records of the Borough of Leicester V.I, p.80.
2. Traill's social England, V.I, p.365.

how important London considered these two fairs: "In 1211...the Husting Court at London was suspended during the days the annual fairs at Boston and Winchester were being held."

e. Leicester Fair.

The original fair of Leicester was changed from the time held at the request of the owner, (July 2, 1360). The royal charter giving this, follows:[1] "At the request of Henry Duke of Lancaster and Earl of Leicester, the date of the fair is changed from the Feast of the Exaltation of the Holy Cross (September 14), and the fortnight following, to three days before Michaelmas Day, Michaelmas, and three days after...The old fair is to cease." By the King himself. Power.

Another extract containing Duke Henry's charter giving the town control of the fair is: "We, the said Duke, for the affection and love which we have to our said town of Leicester... will and grant ..to our mayor and burgesses of the aforesaid town of Leicester and their successors, for ever, all manner of ordering government and assignment of the stalls and plots and the whole regulation of the aforesaid new fair, by the mayor.. and two or three of the more honest and better men of the said town in aid of the said mayor and the burgesses and their successors,...without impediment or hindrance of us, our heirs, or any of our ministers whomsoever; saving always to us and our heirs, the amercements and all other profits accruing to us in the new said fair; to be levied by the bailiffs of us and our heirs in the town of Leicester." Still later there is another grant to the town of a fair by Edward IV[2] "To the mayor

1. Bateson's Rec. of Leicester, V.II,p.111
2. Ibid, V.II, p.296.

and burgesses dwelling in...Leicester of a fair to be held there yearly for seven days, viz. three days before feast of St. Philip and St. James (May 1), on that feast and three days after. Strangers visiting fair to be quit of toll, stallage, and pickage and other customs belonging to the king or his heirs."...

f. Nottingham Fair, sometimes called Lenton Fair.

From the Records of Nottingham,[1] we find one fair was granted to last eight days at the Feast of St. Matthew the Apostle, (September 21). Granted also "one other fair...each year to endure for fifteen days at the feast of St. Edmund the King and Martyr (November 20)...unless this fair shall be to the damage of neighboring fairs"..." With all liberties and free customs pertaining to such a fair." A later notation,-- " We shall be willing to graciously grant that they, (the Mayor, Bailiffs, and Burgesses) in place of the second fair aforesaid, should have a fair there enduring for five days, to wit, on the day and the morrow of St. Peter in Cathedra, (February 22), and for three days next following...provided that this fair shall not be to the damage of neighboring fairs." Scarle. By Writ of Privy Seal, 4165. (1377-78).

Concerning regulations, etc. of the Lenton Fair of Nottingham, the following also comes from the same source. (About 1300 "No merchant shall be held within the town of Nottingham so long as the fair of Lenton lasts,...eight days, of any description of merchandise, except within houses, and in doors and windows, not selling bread and fish and meat, and other victuals;

1. Records of Nottingham, V.I. (Ref. to 1283,84. Rot. Chart. 12 Ed.I, no.51.)

and leather except in houses, doors and windows." "And if the Prior (of Lenton) shall find anything elsewhere for sale, they shall have power to have their will thereof, without cantradiction." After a controversy between the Prior and Convent of Lenton and the Mayor and Burgesses of Nottingham, the following is agreed: The Prior and Convent "have released and quitclaimed to the Mayor and Burgesses of Nottingham and their heirs, four days of the increment of their fair of Lenton, granted by King Henry and by charter confirmed. " Also they promised not to try to get time lengthened over the original grant. Also to allow "cloth merchants, apothecaries, pilchers, and mercers...of the town who wished might hire booths in the fair for 12d." Also, detailed description of booths and stalls is given: "Booths and stalls hired only for himself not for strangers--and not to sell foreign goods in said booths except forhis own profit or that of a merchant of Nottingham." If otherwise done, warden of fair might oust such a person from the fair. Again, "All men of Nottingham..passing through Lenton in fair time with carts, etc. shall be quit of toll and all custom." For this "quittance" the Mayor and Burgesses granted to Prior and Convent of Lenton a building in the Saturday market forever. The Prior and Convent were to receive toll during fair.[1]

g. St. Frideswell Fair at Oxford.

The following account of St. Frideswell is taken from A. L. Smith[2] (Period covered by article is 1066-1216). This fair was held for seven days in July. During that time the city was governed by the Prior of St. Frideswell. A court of pie-powder

1. Rec. of Nottingham, V.I, p.50: 4672;4770.
2. A. L. Smith in Traill, Social England V.I, p.365.

dealt the law merchant. All other trading in town or district was generally suspended during the time of the fair. Wooden booths had certain definite spaces and were arranged according to kind,--"goldsmith's row, furrier's row," etc.

h. St. Bartholomew Fair in Smithfield.

According to the account of Walford[1] this is the only fair of any importance ever held within the walls of the City of London. It existed for 700 years. It is said that the name Smithfield was a corruption of Smooth field, or plain, used as scene of tournaments and other entertainments. The story of its origin is as follows: The Priory, Hospital, and Convent of St. Bartholomew were founded by Rahere, minstrel of the King, in A.D.1102, the king being Henry I. Rahere became the first Prior of the monastery he founded. It is said that he had been ill and intended to make a pilgrimage to Rome, as a pious act; but St. Bartholomew appeared to him and told him to do his good work in Smithfield. After he had established his monastery, he instituted a fair, over which he became lord. He is said to have gone into the fair annually and shown his prowess as a juggler, turning over his profits to the monastery.

To continue, the first charter was obtained in 1133, in which, "I grant my firm peace, to all persons coming to and returning from the fair, which is wont to be celebrated in that place at the Feast of St. Bartholomew; and I forbid any of the Royal Servants to implead any of their persons, or without the consent of the Canons, on those three days, to wit the eve of the feast, the feast itself, and the day following, to levy dues upon those going thither..." It came to be believed that

1. Walford, p.164-167.

special miracles were worked on those attending the festival of, and fair of, St. Bartholomew, consequently many attended it. The chief articles in the early days of the fair were, "cloth, stuffs, leather, pewter, and live cattle."

In 1292 there arose a dispute over tolls, between the City of London and the Priory. The fair had spread beyond the bounds of the priory, and the city authorities applied for half the tolls. The Priory claimed all on the grounds of ancient customs, etc. Edward I, at Durham, held a conference, at which the decision finally was that the charter of the Hospital was again confirmed. In 1321, in the reign of Edward II, and again in 1334 the right of the Priory was questioned, but its right was proved and confirmed. In 1376 under Edward III, a new and confirming charter was issued. It was addressed to the Mayor and Sheriffs of London and Middlesex, and contained among other items the following:..."So that in those three days' space, namely, the eve of the feast, or the day itself, or the day following, from such comers, whether without the City or within, or in passing along the ways or over the bridges, no one shall require any customs, but that all things which arise out of the right of fairs shall be to the said church and the Canons serving God there."... "And now we have understood that some, by sinister covin and conspiracy previously had between them, have knavishly designed to hinder merchants and others who wish to come and have been wont to come to the said fair with their merchandise, so that they cannot come thither and do their business therein, as well to the loss of them, the Prior, and the Convent..." Next it requires the protection of the Mayor and Sheriffs: "And so we command you to maintain, protect, and defend the said Prior and

Canons, their men and servants, merchants and others whomsoever coming to the fair with their goods and things, there tarrying and therefrom returning, and to permit the Prior and Convent to hold their said fair...and to receive...the customs and all other profits which pertain to them in right of said fair...Be you in aid to the said Prior, and Convent, or their bailiffs of the said fair, when hereupon you shall be requested by them." (Proclamation of the above was to be made, as well).

4 . Other fairs.

Cambridge: fairs held in or near Cambridge. There were four annual fairs, one belonging to Prior of Barnwell, held for four days from vigil of St. John the Baptist, by grant of John.[1] Another known as Garlic Fair, belonged to the Prioress and nuns of S. Rhadegund, lasting two days from the feast of the Assumption of the Virgin, by grant of Stephen,[2] The third fair was owned by the Master of the Lepers' Hospital, and has been described as Stourbridge Fair. The fourth was owned by the burgesses and was held on Rotagation Days.[3 & 4].

The fair of the Prior of St. James, Bristol, was held in the week of Pentecost.[5] (Plea for the fair):..."He (the Abbot of Tewksbury) claims also to have a fair at Bristol to last throughout the whole week of Pentecost." He refers to an earlier grant of Henry II "granted and confirmed to the Church of St. James of Bristol, the fair which the aforesaid earl (William, of Gloucester) had at Bristol in the week of Pentecost."... "To have and to hold within and without the Burgh as the same

1. Rot. Hund. Rec. Com.II, 358.
2. Hundred Rolls,II, 359.
3. Hundred Rolls,II,391.
4. Cunningham,I, p.172ff
5. Little Red Book of Bristol,V.I, p.106.

Earl better and more honourably had it, and by such warrant he claims to have the aforesaid fair." The following are examples of grants of fairs.[1] Dunbarton,1226. Fair of eight days in June, Montgomery,1227. "Every year for ever, two fairs...one at feast of St. Bartholomew to last four days...; the other to last eight days...(at the feast of All Saints). Chipping Sodbury,1227. Fair of eight days from St. John Baptist. Marlborough,1246, "Know ye that we will and grant for us and our heirs that for the bettering of our town of Marlborough there be henceforth held there, in the parish of St. Peter and Paul and on the two days following."
Retford, granted fair for eight days "provided that that fair be not a nuisance to the neighboring fairs."
Some other places having fairs are: Hereford,1227; Cashel,1228; Derby,1229; Dublin,1252; Hartlepool,1250; and Berwick-on-Tweed. (This list is only fragmentary).

5. Examples of grants of fairs.

a. To individuals.

"Grant[2] to Herbert, son of Matthew, and his heirs, of a weekly market on Wednesday at Emeleswurth, and <u>of a yearly fair</u> there on the morrow of the Translation of St. Thomas the Martyr."

"Grant[3] to Henry de Capella, and his heirs, a weekly market on Monday at his manor of Deneham, and <u>of a yearly fair</u> there on the vigil of the feast, and the morrow of the nativity of St. Mary." Also "...of a fair on the vigil, the feast, and morrow of St. John at the Latin Gate." (To Henry de Braibrok.)

1. Ballard & Tait, p.248-251.
2. Calendar of Ch. Rolls,23 Henry III, Ap 23 Westminster.
3. Ibid,1226, Henry III, V.I,p.22.

b. To religious houses and the clergy.

The following extracts will illustrate the grants given to religious houses or the clergy to hold fairs: "Grant to the church of St. Mary of Ethon and the Prioress and nuns of the order of Fontevrault, of a yearly fair at Ethon on the feast of the Invention of the Cross, and the four days following, pursuant to a charter of Henry II; grant also that said fair may begin two days before the said feast."[1]

"Grant to the Abbot and monks of Peterborough of a weekly market on Friday at their manor of Ketering, and of a yearly fair at Peterborough on the second Sunday in Lent and the seven days following."[2]

c. To towns.

The extracts to follow are examples of charters given to towns to hold fairs: "Grant to the citizens of Hereford in Wales of the City of Hereford to hold at a fee farm of £40 with privileges and liberties, pursuant to a charter of King John, saving the liberties of the City of London."[3] " Grant to the same of a yearly fair in the city on the feast of St. Denys and the two following days."

"Grant to the burgesses of Dereby of all the free customs,... and the burgesses shall have every year two fairs at Derebi, one on Thursday and Friday in Whitsun week, and the other for eight days before the feast of St. James and for eight days after it."[4]

d. Grants to same individual or corporation of several fairs.

The following are taken from charters where more than one

1. Cal. of Ch. Rolls,23 Henry III,Ap.23, Guilford.
2. Ibid,1227,17 Mar. Westm. 163
3. Ibid,1226, 23 Mar. Westm.128 & 127.
4. Ibid, 13 Henry III, Pt.I 15 My Westm.

fair is granted to the same individual or corporation:

"Granted to Richard deGray, and his heirs, of a weekly market on Friday at his manor of Turrok, and a yearly fair on the vigil and feast of SS. Peter and Paul; of a weekly market on Tuesday at his manor of Eleford and of a yearly fair there on the vigil of SS. Peter and Paul;... at his manor of Schiringh, and of a yearly fair there, on the vigil and feast of the Ascension."[1]

"Grant to G. Bishop of Ossory, and his successors, of a yearly fair at his manor of Kilkenny...Of a yearly fair at his manor of Achethur...of a yearly fair at his manor of Derewold...of a yearly fair at his manor of Tachquithin...of a yearly fair at his manor of Clummor..."[2]

6. "Piepowder Courts" and the law merchant therein administered.

a. Origin and history of these courts.

There are various explanations why "Piepowder Courts" were thus called. The term is a corruption of the French "pieds poudres," meaning "dusty feet." According to H. Hall's Article on Trade and Industry, 1216-1273,[3] they were named from the fact that the disputes were adjudged with such dispatch that these courts admirably suited their transitory suitors,--the men with the dusty feet. Cornelius Walford[4] says; "Without considering fanciful reasons for designations they were a rough-and ready mode of administering justice at markets, fairs, etc." They originated with fairs and disappeared with the decay of the commercial usages of fairs.

1. Cal. of Ch. Rolls, 23 Henry III, 21Feb.Westminster.
2. Cal. of Ch. Rolls, 30 Henry III, 1245 Oct. 28 Chester
3. Traill, Soc. Eng. V.I, p.464.
4. Walford, p.26.

These fair courts were incidental to, and accompaniments of, grants of fairs or markets. A. W. Bewes[1] quotes from Cruise's Digest, in regard to fair courts: "When the king grants a fair or market, the grantee shall have, without any words to that purpose, a court of record, called the Court of Piepowders, as incidental thereto." Other references to these courts are from some of the yearbooks of the kings:[2] " A chescun market est incident un court de pypoud pour fair justice as marchants deins le market;" and[3] "A un fair est incident un court de piepowders et per grant del' fair ceo passa."

While these courts were usual to fairs and markets, and were ordinarily held for duration of either, or both, there were, according to Gross[4] boroughs which had such courts which acted as part of the judicial administration, with sessions when no fairs or markets were in progress. Also boroughs which did not have a market or fair might have such courts, with their proceedings entered in the regular plea rolls, as a branch of these tribunals. These sessions were exclusively for the benefit of visiting traders, and pleas between burghers were not undertaken. Other towns had separate piepowder rolls, indicating separate tribunals, and sometimes clear statement is made that these courts were to be held only during fair or market.

Gross[4] also says that in Bristol a piepowder court was held during the fourteen days of the fair, and for the rest of the year, the law merchant was administered in the tolsey court. This latter court was suspended during the fair, but cases begun in the fair court might be continued in it. This was also the case at Gloucester.

~~1. Welford, p.26.~~
1. Bewes, Romance of the Law Merchant, p.87.
2. Yrbk. 12 Ed.Iv.f.9.
3. Yrbk. 8 Henry VII, f 4.
4. Gross, Select Cases, Introd. V.I., p.20ff

If the fair of city or borough, the same author says, be under the control of a bishop or an abbot, it had its judicial authority vested in his piepowder court to the exclusion of the civil courts. Example of this: In 1241 the bailiffs of the Bishop of Hereford are said to have "omnem curam" at custodiam ejusdem civitatis...et ipsi facient justitiam omnibus querentibus et recipient inde amerciamenta durantibus predictis nundinis." (Abbreviato Placitorum,113).

Another example is from the Calendar of Charter Rolls,[1] "The Prior and Convent yearly at the time of the said fair and through all the said city and its suburb shall have all the jurisdiction belonging to the fair, so that their bailiffs and ministers appointed to keep the said fair shall make distraints, attachments, and do all else pertaining to the said fair within the circuit of the city and the suburb thereof just as the bailiffs and underbailiffs of the city do without the time of the fair." (This was part of an agreement between the Prior and Convent of Norwich and the citizens of Norwich about the fair court to be held by the Prior and Convent of the Holy Trinity of Norwich.) To refer again to the summary procedure, Gross[2] says that in some parts of England the requirement was that pleas concerning wayfaring merchants be settled before the third tide. (Bristol adjournments are from day-tide to day-tide).[3] If the defendent failed to appear when summoned, his goods were attached forthwith, appraised, and sold. (Charter for St. Giles Fair, 32.)

There are fewer and fewer entries in the plea rolls, show-

1. Cal. of Ch. Rolls, V.III, 1306, Dec. 4, Lanecost 70.
2. Gross, Select Cases, Introd. p.22ff.
3. Little Red Book of Bristol, i.p.57.

ing that these piepowder courts were following the way of the fairs. However, in some instances they have survived, as for instance, at St. Bartholomew Fair in London, as late as the middle of the nineteenth century.

b. Organization and jurisdiction of these courts.

The court of piepowder was held before the mayor or bailiffs, if the fair or market belonged to the town; if it was owned by a lord, his steward presided. There were usually assistants as well. From Morley's Bartholomew Fair comes the statement that the officers of St. Bartholomew Fair, until the latter part of the seventeenth century, were an "associate" and six "sergeants-at-mace."

Gross[1] says that the sessions were either continuous from eight or nine A.M. until sunset, or one session in the morning and another in the afternoon. Though persons in the town might be tried, especial attention was given to strangers and wayfarers.

Judgment was rendered concerning debt, contract, and trespass, including breaches of the assize of bread and beer, for the punishment of which every market or fair was required to have "judicialia"--namely a pillory and a tumbrill.[2] Serious crimes (crown pleas) were, as a rule, not undertaken in these courts. An exception to this is, the fact that the judiciars of the St. Giles's Fair at Winchester were vested with authority to hold crown pleas and pleas concerning land. (Charter of St. Giles Fair, 35,37.)

Gross[3] also says that the amount involved was not limited.

1. Gross. Select Cases, Introd. p.22ff.
2. Little Red Book of Bristol, i.p.61
3. Gross. Introd. p.24-25.

In the middle ages the merchants found the judgments or declared the law,--but in the time of Edward IV, the justices of Westminster held that the steward or chief officer was the judge.

Bewes[1] quotes certain rules for government of the fair court, from Sir E. Coke's Institutes, vol.4: "This is a court of record to be holden before the Steward of the Court and the jurisdiction thereof doth consist in four conclusions: i. The contract or cause of action must be in same time of the same fair, or market and not before in a former. ii. It must be for some matter concerning the same fair or market done, complained on, heard and determined. iii. It must be within the precinct of that fair or market. iv. The plaintiff must take an oath according to the statute 17 Ed.IV. c.2 (i.e. that the contract of other deed contained in the declaration was done or committed within the time of the fair), but that concludeth not the defendent."

Cornelius Walford[2] gives the following regulations: 1. It (the piepowder court) would only decide commercial cases. 2. It tried them before a jury of traders on the spot. 3. It could not sit but at fair time; take cognizance of things happening at fair and in fair grounds. 4. It could try a thief who had committed robbery at a fair only if caught within bounds. 5. It might hold pleas for amounts in later times, above 40 shillings. 6. Its judgments could be deferred until next year.

Because of many abuses in judging at these courts, which were causing merchants to stay away from fairs, Parliament tried to regulate them somewhat. In one statute,[3] we find: "...For remedy whereof it was ordained and established that from the

1. Bewes, p.88.
2. Walford, p.26-31.
3. Statement of Abuse of Privilege. 17 Ed.IV.c2.

1st of May then next ensuing no Steward, Understeward, Bailiff, Commissary, nor other minister of any such courts of Pypowder should hold plea upon the action at the suit of any person or persons, unless the plaintiff or plaintiffs...do swear...that the contract or other deed...was made or committed within the Fair and within the time of the Fair where he taketh his action and within the bounds and jurisdiction of the same Fair..."[1]

c. Types of cases considered in these courts.

Interesting it is, to see the different kinds of cases tried, as they usually originated in some trade dispute, and were outside the common law. Their juries were made up of merchants themselves, and were therefore able to render experienced service. Bewes[2] concludes that as one might expect, some cases had to do with improper weights, measures, etc. "Owners and governors of fairs or markets are to take care that everything be sold according to just weight and measure." Others had to do with pure fraud or violence. An example of this is given by H. Hall's survey of trade and industry in 1216-1273,[3] "In the court roll of St. Ives a defendent charged with selling a ring of brass for 5½ d. saying that the ring was of purest gold, and that he and a one-eyed man found it on the last Sunday in the Church of St. Ives, near the Cross."

Gross[4] tells of two juries of Bridge St. and the Green which made presentments regarding breaches of the assize of bread, of the lack of water in the courtyard, the obstruction of highways, failure to remove filth from the streets, and other nuisances. An example of a case in the Fair Court of St. Ives given in the

1. Walford, p.26-31.
2. Bewes, p.87.
3. Traill, Soc. Eng., V.I. p.464.
4. Gross. Select pleas, Introd. p.32.

same work:[1] 25 May 1291. "Let William Ram be attached to answer on Monday for that he is accustomed to meet merchants bringing provisions to the fair, which he buys and thus causes great derth of such provisions in the vill to the damage of the merchants."

A rather amusing case follows. It is the Court at the Fair of St. Ives, 1288:[2] "John, son of John of Eltisley, makes plaint of Roger, the Barber, that he has unjustly broken covenant with him, because, whereas the same John was in the town of Ramsay on Monday next after the Epiphany of the Lord last past, a year ago, in the house of Thomas Buk, the said Roger came there and undertook to cure his head of baldness for 9 d. for which he paid in hand. On Tuesday the aforesaid Roger put him in plaster, and on Wednesday likewise, and afterwards withdrew from the town, so that from that day to this he would have nothing to do with the matter, to John's damage of ½ mark; and he produces suit..."

Some other miscellaneous cases[3] follow: 19 My 1287,[4] "That Henry of Longville, against the peace of the lord Abbot and the bailiffs of the fair, drew blood from Gilbert Shearman, wherefore hue was raised by the said Gilbert to the terror of the fair. Therefore the said Henry is in mercy 2s: pledge, Richard Peche.".. "A certain carter, because his horse knowcked three tiles from house belonging to Abbot, 3d."[4]

Fair of St. Ives Court, 23 My,1300: "William of Gidding was attached by two pledges, as (appears) above, to answer the lord for his contempt and trespass, for that, contrary to an

1. Gross, Select pleas, Introd. p.48
2. Bland, Brown, & Tawney, p.159.
3. Gross. Select cases, p.29.
4. Ibid, p.31.

ordinance of the fair, he let to Alan Goldsmith and William of Derby, chapman, a chamber where they sold their wares, which ought not to have been sold outside the body of the fair, and he abetted them to do this as far as he could against the lord and his bailiffs. He now comes into court by the advice of his friends and puts himself in mercy 40d. for the trespass; pledges, Wyman Grove and Peter Chapman of St. Ives."[1]

Pleas on Thursday, May 19, 1317.

"John Martin was attached to answer John Carter in a plea of debt; and whereof he complains that he (Martin) unjustly detains from him and has not paid him 6s. of silver, which he owes him; and unjustly because whereas they bought together twenty treys of sea-coal, each worth 3s.6d. to wit, on Monday before the feast of St. Peter at Chains last past in the vill of St. Ives, with the understanding that they shoud be partners in the said purchase to gain or to lose, and the said John (Carter) paid for all the said coal with his own money, while the said John Carter found a house for the storage of the said coal, and they afterwards lost 12s. by the sale of the said coal; wherefore the said John Carter demanded from him 6s. as his (Martin's) share (of the loss), which he did not care to pay, but has detained and still detains from him to his damage etc., and says that he is not indebted to him for the said 6s. or for a single penny by reason of the said contract, and (to prove) this he is ready to do what the court may award. And he is at his law *six-handed; pledges of his law, John, Ema's son, and William of Chicksands. And afterwards by leave (of the court) they make accord,

*He must produce five compurgators.

1. Gross, Select cases, p.78.

and the said John Martin puts himself (in mercy) 12d; pledge, John of Bytham."[1]

C. Medieval Markets in England.

1. Origin and history of.

William Cunningham[2] expresses his opinion that trading in markets may have been done at a very early date in England. In fact he says, "the market and market customs may have been instituted among the tribes before their immigration and imported rather than developed here." As long as there was so much hostility between villages, and because of the distances between, there could hardly have been much internal trade. However, the advantages of trade were so clearly seen that the boundary place between two or more places came to be recognized as neutral territory where men might meet for this purpose, without hostility. In this connection, the view of H. S. Maine, in his Village Communities, is cited by Cunningham, but not agreed to by the latter. He days that "the boundary stone was the predecessor of the market-cross, and the neutral area round it, the market-place." Cunningham thinks it more likely that the cross was the symbol of royal power.

Markets are mentioned in Domesday Book, but fairs not at all. Adolphus Ballard[3] gives an extract of William I's legislation regarding markets: "There shall be no market or market-place except in cities of our realm and in boroughs closed and fortified by a wall and in castles and in very safe places." Likewise, Bland, Brown and Tawney give the following extract on the same subject:

1. Gross. Select Cases Concerning the Law Merchant, p.105.
2. Cunningham. Eng. Industry and Commerce, V.I, p.76.
3. A. Ballard. Domesday Boroughs, p.93.

"It is commanded that highways from one market town to another be enlarged, where there are woods, hedges, or ditches, so that there be neither ditches, underwoods, nor bushes wherein a man may lurk to do hurt..." Further, in a charter granted to Ayr, in 1202-7[1] is the following on liberty of access to markets: I command therefore and firmly ordain that all men who with their merchandise shall come to that aforesaid burgh (Ayr)...to sell or buy, shall leave my firm peace and shall make use of the market, and shall return well and in peace." Again, we have, as well, to the (Cinque Ports in 1278):[2] "And we forbid any to disturb them or their market unjustly, on pain of forfeiting £10."

Among the Domesday boroughs, we find that there was only one instance of specific market tolls at this period:[3] (Lewes was the place) "He who in the borough sells a horse gives a penny (nummum) to the praepositus, and the buyer (gives) another. For an ox, a halfpenny. For a man, 4d. wherever he may buy him within the rape." Toll is mentioned as one of the king's sources of revenue, and in other places as belonging to others, but it is not to be taken, Adolphus Ballard cautions us, for granted as always connected with markets. It sometimes referred to the sum paid to pass through gates, across streams, etc.

Hubert Hall's article on trade and industry in 1216-73,[4] gives a picture of the markets of that time. He says those of the larger towns resembled to a certain degree those of the present day, with the difference in type of wares and nationality of the merchants. "In the case of Smithfield Market, for instance,

1. Ballard & Tait, p.271.
2. Ibid, p.275.
3. Ballard's Domesday Boroughs, p.73.
4. Traill's Soc. Eng. V.I., p.462.

a thoroughly representative stock of cattle and horses was collected every six weeks." Ashley[1] gives a brief description of Oxford Market; it was held on wednesdays and Saturdays, and was regulated by the University as early as 1319. Articles sold there were: hay and straw, faggots, timber, pigs, beer, coal and roots, leather and gloves, furs, linen and cloth, corn and dairy products. Also the place on High Street and Corn Market at which each kind of goods was to be sold was regulated. (Pigs were to be stationed for sale between St. Mary's and All Saints).

Alice Stopford[2] relates that between 1200 and 1482 almost 5000 local centres of trade were established by grants of markets and fairs.

Care was taken that in establishing a market it should not interfere with one already in existence. Such an example is given:[3] a market is proposed to be granted to the Abbot of Pershore in the time of Henry III, 1252. The king addresses the mayor and bailiffs of Bristol to find out if such a market "would be to the nuisance of the town, aforesaid...and if it be to your nuisance, to what extent." Another example is the grant which followsin the reign of the same Henry.[4] "Grant to Robert, Bishop of Saresbury, and his successors, of a yearly fair at his manor of Rammesbury...another yearly fair there...also of a yearly fair at Shyrenurn...And <u>for these grants the bishop has quit-claimed the market which he has at the manor of Ramesbiri by the king's grant, because that market was to the hurt of the king's market at Merleberge</u>, provided that the men of the Bishop may sell bread and ale, etc."

1. Ashley, V.I, p.97.
2. A. S. Green. Town life in 15th cent. p.26ff.
3. Bland, Brown, & Tawney, p.157.
4. Cal. Ch. Rolls, V.I, p.252 (24 Henry III, 24 My Woodstock

2. Purpose and Regulations of.

Thorold Rogers,[1] says, "the control of a market was undertaken for a treble purpose--to prevent frauds, to regulate the cost of manufacturing products, and to ensure what was believed to be a natural price. The assize of weights and measures, that of bread and beer, and the enactments against forestalling and regrating, are examples of the mode in which our forefathers exercised the police of the market."

Hubert Hall[2] gives as necessary qualifications for the holding of a market: a favorable situation near some Highway; the grant by the Crown; and the regulations of the market and receipt of the dues from it.

Ashley,[3] in speaking of markets gives certain regulations applying to them: 1. All dealers were compelled to display openly all that they had to sell. 2. Sales not to commence before a certain hour, or before the market bell rang. 3. Unsold commodities not to be removed until they had been displayed for a certain time. Another provision limited the sale of certain articles except to those of the town where the market was held.

Continual references are made to forestalling and regrating, (the buying up of supply of corn or other products, on the way to markets, and the reselling of the same for a higher price). Ashley[4] says that in order to keep dealers from forestalling and regrating, it was prohibited that such dealers should buy before a certain hour, if they intended selling again.

Rogers[5] says, forstalling and regrating constituted offences. "The first offence was a double one; it lessened the

1. Rogers. Six Centuries of Work and Wages, p.28.
2. Traill's Soc. Eng. V.I., p.461.
3. Ashley, V.2,p.20.
4. Ibid, V.2,p.20.
5. Rogers. Six centuries,pp.33-34

dues of the market as well as seeming to curtail supply. The second was an offence against the consumer."

Special days were designated when a market was to be held; usually on one certain day in the week, but in some places, two. For example, the following charters are given: Dumbarton,1221:[1] "I grant also one market day in every week...to wit, Tuesday." Montgomery, 1227: "And a market day on Thursday in every week, with all liberties and free customs to fairs and a market of this kind appertaining." Hartlepool, 1230:..."A free market, to wit, on Tuesday, Berwick-on-Tweed, 1302:... "Two markets every week, one, to wit, on Monday, and the other, on Friday."

Another regulation was that the market was to be held in the same place, and the stalls were to be in the same place as well. A charter to Reading, 1254,[2] states: "That the aforesaid abbot, for himself and his successors and for his church of Reading, granted to the aforesaid burgesses and their heirs, that the corn market in the town of Reading shall be for ever in that place where it was formerly wont to be, and that all other goods be sold.". Also the same for one to Morpeth, 1239-66 (c):[3] "Moreover, I have granted and confirmed to the said burgesses and their heirs that place (to be) quit of rent, where their market was wont to be...in which place I will that they build their stalls and sell fish till the ninth hour elsewhere than on the said stalls, except wholesale."

Some of the rights granted with the market are shown in the following, charter granted by Edward II, to the citizens of York

1. Ballard & Tait, p.246.
2. Ibid, p.277.
3. Ibid, p.247.

in 1316:[1] The citizens of York are to have right to administer "the assize of bread and ale, the assay of weights and measures and all other things belonging to the office of the market"..."And shall punish trespassers...so that the king's clerk of the market or other minister shall not enter the said city or suburbs to do aught belonging to the said office, and all profits thence arising shall go to the citizens and their heirs in aid of their farm." (Except where plea is made of injustice done by mayor, bailiff, or keeper).

A. S. Green[2] says that closely connected with market grants was that of keeping a Beam or Steelyard with its weights, a yard measure and a bushel. Each new mayor received from his predecessors the common chest, the town treasure, and the standard measures. He was required to have every shop keeper and tradesman check up his measures by the standards.

3. Privileges, or Advantages, Obtained from Grants of Markets.

Possession of a market was considered such a valuable privilege that many lawsuits were held in this connection. Ashley[3] speaks of the protest made in the reign of Henry II by men of Oxford and Wallingford at the market at Abingdon because nothing was allowed but bread and beer, at least nothing brought for sale by boats or waggons. The king sided with the Abbot and gave right to monastery to have a "full market," but goods to be brought only in Abbot's boats.

Rogers[4] says that tolls taken at markets totalled considerable amounts. "Thus 18 pigs are sold at Croyden and the payment of a farthing is exacted on each transaction"[5]. Also the market

1. Cal. of Ch. Rolls, 1316, 10 Edward II, 25S & pt. York 46.
2. A. S. Green Town life, p.26-7.
3. Ashley, V.I, p.98.
4. Rogers, Hist. of Agric. & Prices V.I, p.140.
5. Ibid. p.612 i.

at Ersham received tolls for the 15 market days of 51s. and over.[1] A. L. Smith[2] makes the statement, "Markets were frequent and productive; e.g. that of Taunton was worth £2 10s. a year in fees; Bedford, £7."

To return to what Rogers[3] has to say on the subject that in return for the advantages to owner of market, he had to maintain market grounds, supply exact measures and sufficient police to be present on days of sale. It was provided by law that tolls should not be excessive, but the fact that if they were so, would be liable to keep away buyers and sellers, tended to keep the toll within reason. Especially was this likely to be so as no tenant of any manor was required to buy and sell in any lord's market.

4. Examples of Grants of Markets.

a. To individuals.

From a charter in 1226, by Henry III,[4] we have: "Grant to Henry de Capalla, and his heirs, of a weekly market on Monday at his manor of Deneham, and of a yearly fair there..." To Henry de Braibrok, and his heirs, of a weekly market..." "Grant to William Crassus[5] (margin knight) the first-born and his heirs of a weekly market on Thursday...and of a yearly fair..."

b. To religious houses, the clergy.

The following from a charter of the same period:[6] "Grant to the prior and monks of Coventre in perpetuity of a weekly market on Wednesday at their manor of Suham and a yearly fair at Coventre

1. Rogers. Hist. of Agric. & Prices, V.II, p.612,ii.
2. Traill's Social Eng. V.I, p.208.
3. Rogers Hist. of Agric. & Prices, V.II, p.612.
4. Cal. of Ch. Rolls, 1226, Henry III, p.22.
5. Ibid, p.43.
6. Ibid, 1227, V.I, p.6.

on the feast of St. Leger...Also, in 1227:[1] "Grant to the abbot and monks of Peterborough of a weekly market on Friday at their mqnor of Ketering, and of a yearly fair at Peterborough on the second Sunday in Lent and the seven days following.. " Women were also granted markets, as the next extract will show:[2] "Grant to the Prioress and nuns of St. Mary Magdelene, Ikelinton, of a weekly market at Ikelinton."

c. To towns.

As illustrations of charters granting markets to towns, the following extracts are given: "Grant to the men of Mamesfeld of a weekly market on Monday.[3] "Grant to the burgesses of Dereby of all the free customs, which the king's burgesses of Nottingham have and have had in the time of Henry I and Henry II.. all who come to the market of Derebi from the evening of Thursday to the evening of Friday shall not be distrained save for the king's farm..."[4] Kingshorn, 1285:[5] ". .For the good and improvement of our burgh of Kingshorn, we have granted to the burgesses and community of the same burgh a market within the said burgh on every Thursday. To hold and to have as freely, quietly and honourably as any burgesses and communities within our realm have in their burghs on their market days granted to them in buyings and sellings."

d. To several lords jointly.

This extract is given to illustrate markets granted to several lords: In the reign of Edward III,A.D.1337:[6] "William

1. Cal. of Ch. Rolls, 17 Mar. Westm.163.
2. Ibid, 30 Mar. Westm. 94.
3. Ibid, 1 Aug. Westm. p.54.
4. Ibid, 15 May, Westm. 13 Henry III, p.96.
5. Ballard & Tait, p.246.
6. Cal. of Ch. Rolls, 11 & 12 Ed.III,1337,p.38.

de Chaunce brought his writ of Trespass against William de Twenge, Thomas de Ros, and several others...that whereas this William de Chaunce was lord of a moiety of the manor of Kirkeby in Kendale, and...to hold in severalty, in which they have a market in common on Saturday in every week throughout the year..."

e. Grants of several markets to same individual or corporation.

As examples of grants of several markets to same person or body we have:[1] "Granted to Richard de Gray, and his heirs, of a weekly market on Friday at his manor of Turrok...and of a weekly market on Tuesday at his manor of Eleford...and of a weekly market on Thursday at his manor of Schiringh..." Also,[2] "Granted to G. Bishop of Ossory, and his successors, of a yearly fair at his manor of Kilkenny...and of a weekly market there on Wednesday...and of a weekly market there (his manor of Achethur) on Tuesday...and of a weekly market there (his manor of Tachquithin) on Friday...and of a weekly market there (his manor of Clummor) on Monday."

5. Relation Between Possession of Market and Growth of Borough.

Ballard,[3] says that the index of the Record Commission of Domesday Book mentions markets in 42 places, of which 31 are not called boroughs. He thinks this would seem to refute the idea that boroughs were created from the possession of a market by a town. Speaking of the early boroughs, Bland, Brown, and Tawney say:"While the possession of a market did not lead of necessity to self-government...none the less the early borough, with its court co-ordinate with the hundred court, its special peace, <u>and its market</u>, stands out at this time of the Conquest, as a distinct variety of 'communitas,' and easily became a centre

1.Cal. of Ch. Rolls,v.I,p.241, 23Hen.III,2 Feb.Westm.
2.Ibid,p.289, 30Hen.III,28 Oct.1245,Chester.
3.Ballard's Domesday Boroughs, p.78.

of specialized industry and privileged association. Constitutional and economic growth proceed side by side..."[1] Rogers[2] calls the establishment and control of town market the most universal and valued of municipal privileges, remaining to the present day.

1. Bland, Brown, & Tawney, p.111-112.
2. Rogers. Six Centuries of Work and Wages, p.30.

PART IV. SUMMARY.

Internal commerce in medieval England was a matter of local activity; each city or town in trade relations. Foreign merchants, whether really alien or from other parts of England, were discriminated against, and as near as possible a monopoly of trade was held by the different boroughs. Commercial development was handicapped by tolls and taxes imposed pretty nearly at the pleasure of each and every town.

In order to secure for itself better commercial advantages each borough organized a merchant gild, its authority and stability ensured by charter. This merchant gild represented the town in its commercial activities, and protected the individual merchant in his buying and selling.

Besides the merchant gild there were two other outstanding institutions which flourished at this same period. One of these was the annual fair held under grant, by town, religious house, or great lord, at some particular time in the year. These fairs usually lasting a week or more were the centers of much commercial activity, with merchants bringing their wares from far and near. Some of these fairs specialized in certain wares, and became famous because of this specialization. Each fair had a court in which were settled disputes relating to the buying and selling of goods, correct standards, and proper conduct during the fair.

The other institution was the medieval market. This, in contrast to the fair, was held weekly, and on a specified day in the week. Naturally, its field was narrower, having to do with more local buying and selling. It, too, had its charter

and its rules and regulations, and it was considered an important and valuable privilege for its owner to possess.

In conclusion: from the preceding study of the subject, the outstanding impression on the mind of the writer, concerning medieval commerce, is the importance of the local unit of government as the medium through which this commerce was carried on.

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